

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF OKLAHOMA**

Bettsy Bumpas, in her capacity as the)	
Personal Representative of the Estate of)	
J.B., Deceased,)	
)	
Plaintiff,)	
)	
vs.)	Case No. CIV 10-486-RAW
)	
HOC Industries, Inc., Dollar General)	
Corporation, Berry Plastics Corporation,)	
Kerr Group, LLC)	
)	
Defendants.)	

PLAINTIFF'S TRIAL WITNESS LIST PURSUANT TO RULE 26(a)(3)

COMES NOW the Plaintiff by and through her attorneys of record, Carr & Carr, and offers the following witnesses for use at trial pursuant to Federal Rule of Civil Procedure 26(a)(3):

I. WILL CALL WITNESSES

WITNESS	PROPOSED TESTIMONY
Dr. Richard Back Northwest Arkansas Psychological Group 1706 Joyce, Ste. 3 Fayetteville, AR 72703	Expert will provide opinions about psychological harm to parents and family from J.B.'s death
Harold Befort c/o Curtis Smith 119 North Robinson, Suite 820 Oklahoma City, OK 73102	Current employee of Defendant HOC. Will testify about production of torch fuel, quality control measures, quality control problems, communication from management, storage practices, financial matters of HOC, financial aspects of torch fuel production, customer relations, other similar incidents, chemistry and other areas relating to manufacturing of torch fuel. Deposed.

<p>Rhonda Brookshire c/o Gary Farabough P.O. Box 1687 Ardmore, OK 73402</p>	<p>She is a corporate representative of Defendant Dollar General. She will testify about its financial condition, sales of torch fuel, efforts to keep torch fuel out of reach of children, monthly activity guide, storage and stacking of torch fuel bottles, determination of where to stack torch fuel, understanding of consumer expectation of whether torch fuel meets child-resistant standards, knowledge of additional risks to children of coloring and odorizing torch fuel, its agreement or disagreement with various policies, knowledge of additional risks to children of coloring torch fuel so it does not look like juice, odorizing torch fuel so it smells bad to children, feasibility of coloring torch fuel to not look like juice, feasibility of odorizing torch fuel so it smells bad, discussions about using non-see-through packaging for torch fuel, feasibility of packaging torch fuel so it cannot be seen by children, the method of storing torch fuel, its use of the six-wheeled cart or U boat, method of storing torch fuel, knowledge of individuals who ingested torch fuel, whether certain warnings should have been given. She will also testify to her personal belief about retailers of deadly chemicals selling them in packages that are unnecessarily attractive to children or look like apple juice, the risk to children of selling torch fuel in such containers, and changing the bottle so that it was non-transparent.</p>
<p>Bettsy Bumpas c/o Carr & Carr 4416 South Harvard Tulsa, OK 74135</p>	<p>Family testimony about JB, occurrence at scene, and damages to self and family. Deposed.</p>
<p>Eric Bumpas 1016 North B Street Duncan, OK 73533</p>	<p>Family testimony about JB, occurrence at scene, observations about torch fuel and damages to family. Deposed.</p>
<p>Gregory "Chris" Bumpas c/o Carr & Carr 4416 South Harvard Tulsa, OK 74135</p>	<p>Family testimony about JB, occurrence at scene, and damages to self and family. Deposed.</p>

William "Bill" C. Fields United States Department of the Interior National Park Service 1849 C Street NW Washington D.C. 20240	Scene investigation, pain and suffering of JB and family, chain of custody and authentication of The Product
Jordan Foland 325 Kokomo Avenue Darby, KS	Former employee of Defendant HOC. Will testify about production of torch fuel, quality control measures, quality control problems, communication from management, storage practices and other areas related to the manufacturing of torch fuel. Deposed.
Karen Giovenco c/o Gary Farabough P.O. Box 1687 Ardmore, OK 73402	Employee of Dollar General. Will testify about Defendant's decision to purchase torch fuel from HOC, whether it was feasible to package the torch fuel so that it could not be seen by children, discussions with HOC regarding the product and it being packaged in opaque packages, the additional risks to children of torch fuel colored and odorized like the product, the policies of Dollar General about reviewing packages that create an unreasonable risk to children, the advantages and disadvantages of odorizing torch fuel so that it smells bad to children or coloring it so that it does not look like juice, the storage and stacking of bottles of torch fuel, the placement of torch fuel in their stores, efforts to keep torch fuel out of the reach of children, consumer expectations about whether the cap should meet child-resistant standards, its contractual rights regarding its arrangement with HOC, purchase of torch fuel from HOC, sale of torch fuel throughout the United States from its stores, number of stores operated by Dollar General.
Dessiree Green Rt. 2, Box 318 Duncan, OK 73533	Family testimony about JB, scene prior to occurrence, and damages to family

<p>Kent Hobbs c/o Curtis Smith 119 North Robinson, Suite 820 Oklahoma City, OK 73102</p>	<p>Current employee of Defendant HOC. Will testify about production of torch fuel, quality control measures, quality control problems, communication from management, storage practices, financial matters of HOC, financial aspects of torch fuel production, customer relations, other similar incidents, chemistry and other areas relating to manufacturing of torch fuel. Deposed.</p>
<p>Michael Hula 300 8th Street Sedgwick, KS</p>	<p>Former employee of Defendant HOC. Will testify about production of torch fuel, quality control measures, quality control problems, communication from management, storage practices and other areas related to the manufacturing of torch fuel. Deposed.</p>
<p>Dr. Steven Marcus Department of Preventive Medicine & Community Health Medical Science Building Room F506 185 South Orange Avenue Newark, NJ 07101</p>	<p>Expert will provide opinions about the dangerousness of torch fuel looking like apple juice; previous exposures, injuries and deaths to torch fuel and lamp oil, contact with packagers of torch fuel, contact with Defendant HOC, the medical care J.B. received before and after he ingested torch fuel, the effect of the torch fuel on J.B., post mortem evaluation of J.B. and the cause of his death, the classification of petroleum distillates as a dangerous substance and the reasons why, the bad design decisions concerning the product, the reasons why the product was attractive to children and J.B. and why the use of the product involves danger to them, his efforts to reduce the dangers of torch fuel, HOC's lack of concern for the public's welfare, his suggestions for changing the product so that it is safer, causation, lack of care on the part of HOC, reckless disregard of HOC for welfare of children and others.</p>
<p>Michael Menzies 911 Division Street Dawns, KS 67437</p>	<p>Former employee of Defendant HOC. Will testify about production of torch fuel, quality control measures, quality control problems, communication from management, storage practices and other areas related to the manufacturing of torch fuel. Deposed.</p>
<p>John Meredith 6544 Longmont Street Park City, KS</p>	<p>Driver/dock worker of HOC. Will testify about stacking and storage conditions of the torch fuel. Deposed.</p>

Gary V. Montgomery 2601 Pinto Cocoa, FL 32926	Expert will provide opinions that cap was defective.
Tom Olsen c/o Curtis Smith 119 North Robinson, Suite 820 Oklahoma City, OK 73102	Current employee of Defendant HOC. Will testify about production of torch fuel, quality control measures, quality control problems, communication from management, storage practices, financial matters of HOC, financial aspects of torch fuel production, customer relations, other similar incidents, chemistry and other areas relating to manufacturing of torch fuel. Deposed.
Jason Pope Hayes, KS	Former employee of Defendant HOC. Will testify about production of torch fuel, quality control measures, quality control problems, communication from management, storage practices and other areas related to the manufacturing of torch fuel. Deposed.
Donald Poschen c/o Curtis Smith 119 North Robinson, Suite 820 Oklahoma City, OK 73102	Current employee of Defendant HOC. Will testify about production of torch fuel, quality control measures, quality control problems, communication from management, storage practices, financial matters of HOC, financial aspects of torch fuel production, customer relations, other similar incidents, chemistry and other areas relating to manufacturing of torch fuel, testing of the package and its caps and bottles, product spec sheet, seals for the cap and bottle, his notes regarding the testing and other things, his knowledge of how the caps work. Mr. Poschen has resisted completing his deposition and Plaintiff requests leave to supplement this description of this testimony when the deposition is completed.
Amber Rains Blackwell, OK	Mother of child victim. Will testify about dangers of torch fuel.
Jacob Rains Blackwell, OK	Father of child victim. Will testify about dangers of torch fuel.

<p>Clayton Robinson Precise Packaging Services Building 2 5866 Schultz Road Elberfeld, IN 47613</p>	<p>Expert will provide opinions about the defectiveness of the package and cap; chain of custody of the product, compatibility of the package, cap and fuel, testing for compatibility and child effectiveness, application of the federal regulations to the packaging of torch fuel, negligence of the Defendants, defects in the package and its cap, the likelihood of J.B. opening a functioning and non-functioning CRC on the package, effect of heat, sun and pressure on the package and cap, causation.</p>
<p>David Schwebel Department of Psychology University of Alabama 1300 University Blvd. Birmingham, AL 35294</p>	<p>Expert will provide opinions about the attractiveness of the product to children, including JB, capabilities of children of various ages, alternative designs that would be less appealing to children, negligence of the Defendants, defects in the product and package, causation, reasons why the product was attractive to children, reasons why the product was defective, why the product was not fit to be sold and used around children, other packaging that was available which would not have been as attractive to J.B. as the product, the recklessness of Defendants, the misrepresentations Defendants made, the negligence of Defendants, causation, the ability of 23 month old children to remove a functioning and non-functioning CRC from a 64 oz bottle of torch fuel, causation.</p>
<p>Randy Scoggins United States Department of the Interior National Park Service 1849 C Street NW Washington D.C. 20240</p>	<p>Scene investigation of park rangers, chain of custody of the product, interviews with witnesses in investigation. Deposed.</p>
<p>Tharen Spahr c/o Curtis Smith 119 North Robinson, Suite 820 Oklahoma City, OK 73102</p>	<p>Current employee of Defendant HOC. Will testify about production of torch fuel, quality control measures, quality control problems, communication from management, storage practices, financial matters of HOC, financial aspects of torch fuel production, customer relations, other similar incidents, chemistry and other areas relating to manufacturing of torch fuel. Deposed.</p>

Riley Spears or other Dollar General Representative c/o Gary Farabough P.O. Box 2100 Ardmore, OK 73402	Will testify about handling and storage of product at Dollar General's Distribution Center. Deposed.
Lashonda Thomas 434 North 6 th Street Lomer, LA 71040	Mother of child victim. Will testify about dangers of torch fuel.
Sue Thompson National Park Service 1849 C Street NW Washington D.C. 20210	Park Ranger. Will testify about chain of custody of bottle and storage conditions at National Park Service.
Amanda Vickers c/o Carr & Carr 4416 South Harvard Tulsa, OK 74135	Mother of child victim. Will testify about dangers of torch fuel.
Bill Vickers c/o Carr & Carr 4416 South Harvard Tulsa, OK 74135	Father of child victim. Will testify about dangers of torch fuel.
Bonnie Jolene Wells c/o Carr & Carr 4416 South Harvard Tulsa, OK 74135	Mother of child victim. Will testify about dangers of torch fuel.
Cory Christohper Wells c/o Carr & Carr 4416 South Harvard Tulsa, OK 74135	Father of child victim. Will testify about dangers of torch fuel.
Bryan Yeardon c/o HOC Industries, Inc. Curtis L. Smith Chubbuck Smith & Duncan Robinson Renaissance, Ste 820 119 N. Robinson Oklahoma City, OK 73102	Vice president of business development for HOC Industries, Inc as designated on initial disclosures. Will testify about testing of fuel and cap, production practices, quality control, financial considerations regarding torch fuel, financial condition of HOC, communication to management and employees, knowledge of danger of torch fuel, other incidents, storage practices, customer relations. Deposed.
Corporate Representative of each Defendant	Defendant's practices; financial condition
Custodians of records as needed	Authentication of medical records, poison control publications, Park Ranger investigation, scene photos, bottle and cap photos, and other documents listed in Plaintiff's Exhibit List.

II. MAY CALL WITNESSES

WITNESS	PROPOSED TESTIMONY
Dr. Alan Aycock Aycock & Snell, PLLC 5402 Southwest Lee Boulevard Lawton, OK 73505	Medical testimony about JB
Ruth Balzer c/o Curtis Smith 119 North Robinson, Suite 820 Oklahoma City, OK 73102	Current employee of Defendant HOC. Will testify about production of torch fuel, quality control measures, quality control problems, communication from management, storage practices, financial matters of HOC, financial aspects of torch fuel production, customer relations, other similar incidents, chemistry and other areas relating to manufacturing of torch fuel.
Alonzo Bell Address Unknown	Production worker of HOC
Nicholas Biggs Address Unknown	Dock employee of HOC
Sheli Blessant 1016 North Coolidge Avenue Wichita, KS	Inventory control/logistics of HOC
James Bowman c/o Curtis Smith 119 North Robinson, Suite 820 Oklahoma City, OK 73102	Current employee of Defendant HOC. Will testify about production of torch fuel, quality control measures, quality control problems, communication from management, storage practices, financial matters of HOC, financial aspects of torch fuel production, customer relations, other similar incidents, chemistry and other areas relating to manufacturing of torch fuel.
John Branum c/o Carr & Carr 4416 South Harvard Tulsa, OK 74135	Chain of custody of The Product if necessary
Robert Bronson Address Unknown	Production lead of HOC
Bradley Brown Address Unknown	Production lead of HOC
Robert Buckingham Address Unknown	Forklift driver of HOC
Pat Carr c/o Carr & Carr 4416 South Harvard Tulsa, OK 74135	Chain of custody of The Product if necessary.

Dr. Chai S. Choi Oklahoma Medical Examiner 901 North Stonewall Oklahoma City, OK 73117	Medical examiner concerning JB
Frankie Chrisman 409 West 15 th Street Concordia, KS	Former employee of Defendant HOC. Will testify about production of torch fuel, quality control measures, quality control problems, communication from management, storage practices and other areas related to the manufacturing of torch fuel.
Stanley Circle 1011 Sage Street Silver Lake, KS	Former employee of Defendant HOC. Will testify about production of torch fuel, quality control measures, quality control problems, communication from management, storage practices and other areas related to the manufacturing of torch fuel.
Aaron Cline Address Unknown	Production worker of HOC
Kathy Cline Address Unknown	Administrative assistant of HOC
Luke Cocking Address Unknown	Production worker of HOC
Nicholas Cocking Address Unknown	Production worker of HOC
Jim Cole Address unknown	Former employee of Defendant HOC. Will testify about production of torch fuel, quality control measures, quality control problems, communication from management, storage practices and other areas related to the manufacturing of torch fuel.
Janice Crabtree 4327 Rushwood Circle Bel Aire, KS	Former employee of Defendant HOC. Will testify about production of torch fuel, quality control measures, quality control problems, communication from management, storage practices and other areas related to the manufacturing of torch fuel.
Byron Curtis Oklahoma Medical Examiner 901 North Stonewall Oklahoma City, OK 73117	Medical examiner concerning JB
Christopher Desoto Address Unknown	Production worker of HOC
Steve Devereaux Address Unknown	Forklift driver of HOC

Lori Dixon c/o Drew Downing 100 West 5 th Street, Suite 400 P.O. Box 2100 Tulsa, OK 74121	Child-resistant testing protocol Deposed.
Hope Francis Address Unknown	Employee of Rexam
Cole Gillenwater Address unknown	Current employee of Defendant HOC. Will testify about production of torch fuel, quality control measures, quality control problems, communication from management, storage practices, financial matters of HOC, financial aspects of torch fuel production, customer relations, other similar incidents, chemistry and other areas relating to manufacturing of torch fuel.
Kirby Green Rt. 2, Box 318 Duncan, OK 73533	Family testimony about JB, scene prior to occurrence, and damages to family
Anthony Groves Address Unknown	Production worker of HOC
Robert Henry Address Unknown	Maintenance man of HOC
Steve Jacobson c/o Gary Farabough P.O. Box 1687 Ardmore, OK 73402	Employee of Dollar General. Will testify about Defendant's decision to purchase torch fuel from HOC.
John Jacobus c/o Curtis Smith 119 North Robinson, Suite 820 Oklahoma City, OK 73102	Defendant HOC's expert in chemistry. Will testify about his background as an expert witness, the chemical composition of cap and torch fuel, susceptibility of package to pressure, heat, cold and sunlight; temperature in the bed of a pickup, compatibility of torch fuel with caps, temperatures of pick up truck beds, storage of bottle and cap, testing of the cap and fuel, condition of the cap, the absorption of torch fuel components by the plastic in the cap, . Deposed.
Leroy Johnson Oklahoma Medical Examiner 901 North Stonewall Oklahoma City, OK 73117	Medical examiner concerning JB
Russell Kessler Address Unknown	Logistics manager of HOC
Louis Krug Address Unknown	Park Ranger photographer

Tony Laster c/o Carr & Carr 4416 South Harvard Tulsa, OK 74135	Closures of exemplar products and custody of them; chain of custody of The Product; authentication of photographs and documents
Dr. Teresa Lynn Arbuckle Memorial Hospital 2011 West Broadway Sulphur, OK 73086	Medical provider; Pain and suffering of JB and family
Daniel Mahoney Address Unknown	Production worker of HOC
Lee McGoodwin Oklahoma Poison Control Center 940 NE 13 th Street Room 3N3510 Oklahoma City, OK 73104	Authenticate recordings of calls to and from Oklahoma Poison Control
Selena McGriff c/o Gary Farabough P.O. Box 1687 Ardmore, OK 73402	Employee of Dollar General. Will testify about Defendant's decision to purchase torch fuel from HOC.
Leo Mendoza Address Unknown	Production worker of HOC
Steven Mullins Address Unknown	Medical examiner concerning JB
William Nath c/o Curtis Smith 119 North Robinson, Suite 820 Oklahoma City, OK 73102	Former employee of Defendant HOC. Will testify about production of torch fuel, quality control measures, quality control problems, communication from management, storage practices, financial matters of HOC, financial aspects of torch fuel production, customer relations, other similar incidents, chemistry and other areas relating to manufacturing of torch fuel. Deposed.
Bryn Nesley 324 North Zachary Drive Derby, KS	Office staff of HOC
Christopher Newell Address Unknown	Production supervisor of HOC
Debra Patton Address Unknown	Accounts payable clerk of HOC
Victor Polley Address Unknown	Production worker of HOC
Teresa Ranney Address Unknown	Administrative assistant of HOC

Susan Rider 113 West Willow Duncan, OK	Family testimony about JB, damages to family
Bruce Robinson Address Unknown	Driver/dock worker of HOC
Karis Schroeder Address Unknown	Part time office worker of HOC
Thomas Short Address Unknown	Production worker of HOC
Tina Smith Address Unknown	Production worker of HOC
Dr. Stephen W. Snell, III 5402 Southwest Lee Boulevard Lawton, OK 73505	Medical testimony about JB
Danny Standley 219 North Lincoln Street Smith Center, KS	Current employee of Defendant HOC. Will testify about production of torch fuel, quality control measures, quality control problems, communication from management, storage practices, financial matters of HOC, financial aspects of torch fuel production, customer relations, other similar incidents, chemistry and other areas relating to manufacturing of torch fuel.
Calvin Stephenson 4967 South Meadowview Wichita, KS	Logistics manager of HOC
Jessie Terronez Address Unknown	Production line of HOC

John Vassallo 106 Ridgefield Way Lititz, PN	Will testify about child-resistant closures, his examination of the package and cap, the fact the cap did not freewheel when he examined it, the probable cause of the cap not freewheeling, the seals used on the package and similar packages, testing of CRC closures, the design and dimensions of the closure, communications between Berry and HOC, Berry's warnings to HOC to test the cap for compatibility with the fuel, the manufacturing of the cap, the reaction of the polypropylene with torch fuel, the cause of the cap swelling, adsorption of the fuel and its vapors, the purpose of CRC and the prevention of injuries and deaths of children, the likelihood of a 23 month old child removing a functioning CRC from the package, the effect of torque on the package and the CRC, the need to test the cap for compatibility with torch fuel, HOC's responsibilities to test under the Poison Prevention Packaging Act, effect of heat on the CRC.
Lorena Vasquez Address Unknown	Accounts receivable clerk of HOC
David Waughtal Address Unknown	Maintenance man of HOC
Dennis Weiland United States Department of the Interior National Park Service 1849 C Street NW Washington D.C. 20240	Scene Investigation of park rangers.
Gary White Address Unknown	Driver/dock worker of HOC
Pansy Workman c/o Dollar General Corporation Gary W. Farabough P.O. Box 1687 Ardmore, Oklahoma 73402	Dollar General district manager who will testify about store procedures as designated on initial disclosures
Chad Zellmer 426 East Irma Street Maize, KS	Driver/dock worker of HOC

Unknown mother who lost child as identified in Bryan Yourdon's depo page 215 line 1- 11 Address unknown	
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Respectfully submitted,

CARR & CARR, ATTORNEYS

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CERTIFICATE OF SERVICE

I hereby certify that on the 1st day of October, 2011, the foregoing was filed electronically with the Clerk of the Court to be served by operation of the Court's electronic filing system upon the following:

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By: /s/ Patrick E. Carr
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